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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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12 JOSEPH WAYNE FOSTER, JR.,

13 Petitioner,

14 v.

15 SUZANNE M. PEERY,

16 Respondent.
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) Case No. LA CV 15-2826 JGB (JCG)

) **ORDER ACCEPTING REPORT AND**
) **RECOMMENDATION OF UNITED**
) **STATES MAGISTRATE JUDGE AND**
) **DENYING CERTIFICATE OF**
) **APPEALABILITY**

18 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, the Magistrate
19 Judge's Report and Recommendation, Petitioner's Objections to the Report and
20 Recommendation, and the remaining record, and has made a *de novo* determination.

21 Petitioner does not challenge the Magistrate Judge's conclusion that the Petition
22 is untimely.

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1 Accordingly, IT IS ORDERED THAT:

2 1. The Report and Recommendation is approved and accepted;

3 2. Judgment is entered denying the Petition and dismissing this action with
4 prejudice; and

5 3. The Clerk serve copies of this Order on the parties.

6 Additionally, for the reasons set forth above and in the Report and
7 Recommendation, the Court finds that Petitioner has not made a substantial showing of
8 the denial of a constitutional right. *See* 28 U.S.C. § 2253; Fed. R. App. P. 22(b);
9 *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003). Thus, the Court declines to issue a
10 certificate of appealability.

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13 DATED: July 6, 2015



14 HON. JESUS G. BERNAL
15 UNITED STATES DISTRICT JUDGE
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